

House File 634 - Reprinted

HOUSE FILE 634

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HSB 228)

(As Amended and Passed by the House April 17, 2013)

A BILL FOR

1 An Act relating to the policy administration of the tax and
2 related laws and related programs by the department of
3 revenue, including administration of income taxes, sales
4 and use taxes, the orderly wind-up and eventual repeal of
5 the Iowa fund of funds program, the replacement taxes task
6 force, a study report related to administrative appeals
7 processes for tax matters, the distribution of statewide
8 school infrastructure funds, and including effective date
9 and retroactive and other applicability provisions.
10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I
INCOME TAXES

Section 1. Section 2.48, subsection 3, paragraph c, subparagraph (4), Code 2013, is amended by striking the subparagraph.

Sec. 2. Section 2.48, subsection 3, paragraph e, subparagraph (5), Code 2013, is amended by striking the subparagraph.

Sec. 3. Section 15.119, subsection 2, paragraph c, Code 2013, is amended by striking the paragraph.

Sec. 4. Section 422.5, subsection 1, paragraph j, subparagraph (2), subparagraph division (a), Code 2013, is amended to read as follows:

(a) The tax imposed upon the taxable income of a resident shareholder in an S corporation or of an estate or trust with a situs in Iowa that is a shareholder in an S corporation, which S corporation has in effect for the tax year an election under subchapter S of the Internal Revenue Code and carries on business within and without the state, may be computed by reducing the amount determined pursuant to paragraphs "a" through "i" by the amounts of nonrefundable credits under this division and by multiplying this resulting amount by a fraction of which the resident's or estate's or trust's net income allocated to Iowa, as determined in section 422.8, subsection 2, paragraph "b", is the numerator and the resident's or estate's or trust's total net income computed under section 422.7 is the denominator. If a resident shareholder, or an estate or trust with a situs in Iowa that is a shareholder, has elected to take advantage of this subparagraph (2), and for the next tax year elects not to take advantage of this subparagraph, the resident or estate or trust shareholder shall not reelect to take advantage of this subparagraph for the three tax years immediately following the first tax year for which the shareholder elected not to take advantage of this subparagraph, unless the director consents to the reelection.

1 This subparagraph also applies to individuals who are residents
2 of Iowa for less than the entire tax year.

3 Sec. 5. Section 422.8, subsection 2, paragraph b,
4 unnumbered paragraph 1, Code 2013, is amended to read as
5 follows:

6 A resident's income, or the income of an estate or trust with
7 a situs in Iowa, allocable to Iowa is the income determined
8 under section 422.7 reduced by items of income and expenses
9 from an S corporation that carries on business within and
10 without the state when those items of income and expenses pass
11 directly to the shareholders under provisions of the Internal
12 Revenue Code. These items of income and expenses are increased
13 by the greater of the following:

14 Sec. 6. Section 422.15, subsection 2, Code 2013, is amended
15 to read as follows:

16 2. Every partnership, including limited partnerships
17 ~~organized under chapter 488, having a place of business in~~
18 ~~the state, doing business in this state, or deriving income~~
19 ~~from sources within this state as defined in section 422.33,~~
20 subsection 1, shall make a return, stating specifically the net
21 income and capital gains (or losses) reported on the federal
22 partnership return, the names and addresses of the partners,
23 and their respective shares in said amounts.

24 Sec. 7. Section 422.33, subsections 9 and 27, Code 2013, are
25 amended by striking the subsections.

26 Sec. 8. REPEAL. Sections 16.211, 16.212, and 422.11X, Code
27 2013, are repealed.

28 Sec. 9. EFFECTIVE UPON ENACTMENT. This division of this
29 Act, being deemed of immediate importance, takes effect upon
30 enactment.

31 Sec. 10. RETROACTIVE APPLICABILITY. The following
32 provision or provisions of this division of this Act apply
33 retroactively to January 1, 2013, for tax years beginning on
34 or after that date:

35 1. The section of this division of this Act amending section

1 422.5.

2 2. The section of this division of this Act amending section
3 422.8.

4 3. The section of this division of this Act amending section
5 422.15.

6 DIVISION II

7 SALES AND USE TAXES

8 Sec. 11. Section 423.1, subsection 5, Code 2013, is amended
9 to read as follows:

10 5. "*Agricultural production*" includes the production of
11 flowering, ornamental, or vegetable plants in commercial
12 greenhouses or otherwise, and production from aquaculture,
13 and production from silvicultural activities. "*Agricultural*
14 *products*" includes flowering, ornamental, or vegetable plants
15 and those products of aquaculture and silviculture.

16 Sec. 12. Section 423.2, subsection 6, paragraph a, Code
17 2013, is amended to read as follows:

18 a. The sales price of any of the following enumerated
19 services is subject to the tax imposed by subsection
20 5: alteration and garment repair; armored car; vehicle repair;
21 battery, tire, and allied; investment counseling; service
22 charges of all financial institutions; barber and beauty;
23 boat repair; vehicle wash and wax; campgrounds; carpentry;
24 roof, shingle, and glass repair; dance schools and dance
25 studios; dating services; dry cleaning, pressing, dyeing, and
26 laundering; electrical and electronic repair and installation;
27 excavating and grading; farm implement repair of all kinds;
28 flying service; furniture, rug, carpet, and upholstery
29 repair and cleaning; fur storage and repair; golf and country
30 clubs and all commercial recreation; gun and camera repair;
31 house and building moving; household appliance, television,
32 and radio repair; janitorial and building maintenance or
33 cleaning; jewelry and watch repair; lawn care, landscaping,
34 and tree trimming and removal; limousine service, including
35 driver; machine operator; machine repair of all kinds; motor

1 repair; motorcycle, scooter, and bicycle repair; oilers and
2 lubricators; office and business machine repair; painting,
3 papering, and interior decorating; parking facilities; pay
4 television; pet grooming; pipe fitting and plumbing; wood
5 preparation; executive search agencies; private employment
6 agencies, excluding services for placing a person in employment
7 where the principal place of employment of that person is to
8 be located outside of the state; reflexology; security and
9 detective services, excluding private security and detective
10 services furnished by a peace officer with the knowledge and
11 consent of the chief executive officer of the peace officer's
12 law enforcement agency; sewage services for nonresidential
13 commercial operations; sewing and stitching; shoe repair
14 and shoeshine; sign construction and installation; storage
15 of household goods, mini-storage, and warehousing of raw
16 agricultural products; swimming pool cleaning and maintenance;
17 tanning beds or salons; taxidermy services; telephone
18 answering service; test laboratories, including mobile testing
19 laboratories and field testing by testing laboratories, and
20 excluding tests on humans or animals; termite, bug, roach, and
21 pest eradicators; tin and sheet metal repair; transportation
22 service consisting of the rental of recreational vehicles or
23 recreational boats, or the rental of motor vehicles subject
24 to registration which are registered for a gross weight of
25 thirteen tons or less for a period of sixty days or less, or
26 the rental of aircraft for a period of sixty days or less;
27 Turkish baths, massage, and reducing salons, excluding services
28 provided by massage therapists licensed under chapter 152C;
29 water conditioning and softening; weighing; welding; well
30 drilling; wrapping, packing, and packaging of merchandise other
31 than processed meat, fish, fowl, and vegetables; wrecking
32 service; wrecker and towing.

33 Sec. 13. Section 423.3, subsection 47, paragraph a,
34 unnumbered paragraph 1, Code 2013, is amended to read as
35 follows:

1 The sales price from the sale or rental of computers,
 2 machinery, and equipment, including replacement parts and
 3 consumable supplies, and materials used to construct or
 4 self-construct computers, machinery, and equipment if such
 5 items are any of the following:

6 Sec. 14. Section 423.3, subsection 47, paragraph d, Code
 7 2013, is amended by adding the following new subparagraph:

8 NEW SUBPARAGRAPH. (02) "*Consumable supplies*" means tangible
 9 personal property, other than computers, machinery, equipment,
 10 or raw materials, that is consumed or expended during the
 11 manufacture of other tangible personal property. The term
 12 "*consumable supplies*" includes but is not limited to oils,
 13 greases, hydraulic fluids, coolants, and lubricants.

14 Sec. 15. Section 423.3, subsection 47, paragraph d,
 15 subparagraph (4), Code 2013, is amended to read as follows:

16 (4) "*Manufacturer*" means ~~as defined in section 428.20 a~~
 17 person who purchases, receives, or holds personal property
 18 of any description for the purpose of adding to its value by
 19 a process of manufacturing, refining, purifying, combining
 20 of different materials, or by the packing of meats, with a
 21 view to selling the property for gain or profit, but also
 22 includes contract manufacturers. A contract manufacturer is
 23 a manufacturer that otherwise falls within the definition of
 24 manufacturer ~~under section 428.20~~, except that a contract
 25 manufacturer does not sell the tangible personal property
 26 the contract manufacturer processes on behalf of other
 27 manufacturers. A business engaged in activities subsequent
 28 to the extractive process of quarrying or mining, such as
 29 crushing, washing, sizing, or blending of aggregate materials,
 30 is a manufacturer with respect to these activities. This
 31 subparagraph (4) shall not be construed to require that a
 32 person be primarily engaged in an activity listed in this
 33 subparagraph in order to qualify as a manufacturer for purposes
 34 of this subsection.

35 Sec. 16. Section 423.3, subsection 47, paragraph d, Code

1 2013, is amended by adding the following new subparagraph:

2 NEW SUBPARAGRAPH. (7) (a) "*Replacement part*" means
3 tangible personal property that meets all the following
4 conditions:

5 (i) The tangible personal property replaces a component of
6 a computer, machinery, or equipment, which component is capable
7 of being separated from the computer, machinery, or equipment.

8 (ii) The tangible personal property performs the same or
9 similar function as the component it replaced.

10 (iii) The tangible personal property restores the computer,
11 machinery, or equipment to its original operating condition, or
12 upgrades or improves the efficiency of the computer, machinery,
13 or equipment.

14 (b) "*Replacement part*" does not include a consumable
15 supply or a jig, die, tool, or other device that is used in
16 conjunction with machinery or equipment and that is specially
17 designed for use in manufacturing specific products and that
18 may be used interchangeably and intermittently on a particular
19 machine or piece of equipment.

20 Sec. 17. Section 423.3, Code 2013, is amended by adding the
21 following new subsection:

22 NEW SUBSECTION. 99. The sales price from services furnished
23 by forestry consultants and forestry vendors engaged in
24 forestry practices on private or public land.

25 DIVISION III

26 IOWA FUND OF FUNDS

27 Sec. 18. Section 15E.62, Code 2013, is amended by adding the
28 following new subsections:

29 NEW SUBSECTION. 03. "*Creditor*" means a person, including
30 an assignee of or successor to such person, who extends credit
31 or makes a loan to the Iowa fund of funds or to a designated
32 investor, and includes any person who refinances such credit
33 or loan.

34 NEW SUBSECTION. 04. "*Fund documents*" means all agreements
35 relating to matters under the purview of this division VII

1 entered into prior to the effective date of this division of
 2 this Act between or among the state, the Iowa fund of funds, a
 3 fund allocation manager or similar manager, the Iowa capital
 4 investment corporation, the board, a creditor, a designated
 5 investor, and a private seed or venture capital partnership,
 6 and includes other documents having the same force and effect
 7 between or among such parties, as any of the foregoing may be
 8 amended, modified, restated, or replaced from time to time.

9 Sec. 19. Section 15E.65, subsection 2, paragraph h, Code
 10 2013, is amended to read as follows:

11 ~~h. Fifty years after the organization of the Iowa fund~~
 12 ~~of funds~~ As soon as practicable after the effective date
 13 of this division of this Act, the Iowa capital investment
 14 corporation, in conjunction with the department of revenue,
 15 the board, and the attorney general, shall wind up the Iowa
 16 fund of funds pursuant to section 15E.72 and shall cause the
 17 Iowa fund of funds to be liquidated with all of its assets
 18 distributed to its owners in accordance with the provisions of
 19 its organizational documents and in accordance with the fund
 20 documents. In liquidating such assets, the capital investment
 21 corporation, the department of revenue, the board, and the
 22 attorney general shall act with prudence and caution in order
 23 to minimize costs and fees and to preserve investment assets to
 24 the extent reasonably possible.

25 Sec. 20. NEW SECTION. 15E.72 Program wind-up and future
 26 repeal.

27 1. *Findings.* The general assembly finds that the Iowa fund
 28 of funds program established pursuant to this division has
 29 not fulfilled the purposes described in section 15E.61 to the
 30 extent necessary to justify the fifty-year timeframe for the
 31 program that was originally envisioned in this division VII and
 32 that an early and orderly wind-up of the program is desirable.

33 2. *Organization of additional funds prohibited.*

34 Notwithstanding section 15E.65, an Iowa fund of funds shall not
 35 be organized on or after the effective date of this division

1 of this Act.

2 3. *New investments by the fund of funds prohibited.*

3 Notwithstanding section 15E.65, the Iowa fund of funds shall
4 not make new investments in private seed and venture capital
5 partnerships or entities on or after the effective date of this
6 division of this Act except as required by the fund documents.

7 4. *New investments by designated investors prohibited.*

8 a. Except as provided in paragraph "b", and notwithstanding
9 any other provision in this division VII, a designated investor
10 shall not invest in the Iowa fund of funds on or after the
11 effective date of this division of this Act.

12 b. Notwithstanding the prohibition in paragraph "a", a
13 designated investor may invest in the Iowa fund of funds on or
14 after the effective date of this division of this Act to the
15 extent such investment is required by the fund documents. In
16 addition, the director of revenue, with the approval of the
17 attorney general, may authorize additional investment in the
18 Iowa fund of funds but only if such an investment is necessary
19 to preserve fund assets, repay creditors, pay taxes, or
20 otherwise effectuate an orderly wind-up of the program pursuant
21 to this section.

22 5. *Issuance, verification, and redemption of new certificates*
23 *prohibited.*

24 a. Except as provided in paragraph "b", and notwithstanding
25 any other provision in this division VII, the board shall not
26 issue, verify, or redeem a certificate or a related tax credit
27 on or after the effective date of this division of this Act.

28 b. Notwithstanding the prohibition in paragraph "a", the
29 board may issue, redeem, or verify a certificate or a related
30 tax credit under any of the following conditions:

31 (1) The board is required to do so under the terms of the
32 fund documents.

33 (2) The issuance, redemption, or verification is deemed
34 necessary by the director of revenue and the attorney general
35 in order to arrange new financing terms with a creditor.

1 (3) The issuance, redemption, or verification is deemed
2 necessary by the director of revenue and the attorney general
3 to preserve fund assets, repay creditors, or otherwise
4 effectuate an orderly wind-up of the program pursuant to this
5 section.

6 6. *New fund allocation managers prohibited.*

7 a. Notwithstanding any other provision in this division
8 VII, the Iowa capital investment corporation shall not have
9 authority to solicit, select, terminate, or change a fund
10 allocation manager or similar manager on or after the effective
11 date of this division of this Act.

12 b. On or after the effective date of this division of this
13 Act, all decisions pertaining to relationships with a fund
14 allocation manager or similar manager selected prior to the
15 effective date of this division of this Act shall be made
16 by the director of revenue with the approval of the attorney
17 general. This subsection shall not be construed to impair the
18 terms of the fund documents.

19 7. *Pledging of certificates prohibited.*

20 a. Except as provided in paragraph "b", and notwithstanding
21 any other provision of law to the contrary, a certificate and a
22 related tax credit or verified tax credit issued by the board
23 shall not be pledged by a designated investor as security for a
24 loan or an extension of credit on or after the effective date
25 of this division of this Act.

26 b. Notwithstanding the prohibition in paragraph "a", a
27 certificate and related tax credit or verified tax credit
28 issued by the board may be pledged by a designated investor as
29 security for a loan or an extension of credit to the extent
30 such pledge is required by the fund documents. In addition,
31 the board, with the approval of the director of revenue and the
32 attorney general, may authorize a certificate and related tax
33 credit to be pledged as security for a loan or an extension
34 of credit, but only if such a pledge is necessary to arrange
35 new financing terms with a creditor or to repay creditors for

1 moneys loaned or credit extended to a designated investor.

2 8. *Rural and small business loan guarantees prohibited.*

3 Notwithstanding any other provision in this division VII
4 to the contrary, the Iowa capital investment corporation
5 shall not make rural and small business loan guarantees or
6 otherwise administer a program to provide loan guarantees and
7 other related credit enhancements on loans to rural and small
8 business borrowers within the state of Iowa on or after the
9 effective date of this division of this Act.

10 9. *Iowa capital investment corporation purposes amended.*

11 Notwithstanding section 15E.64, on or after the effective date
12 of this division of this Act, the purposes of the Iowa capital
13 investment corporation shall be to comply with its obligations
14 under the fund documents and to assist the board, the director
15 of revenue, and the attorney general in effectuating the
16 orderly wind-up of the Iowa fund of funds. In effectuating
17 such a wind-up, the Iowa capital investment corporation shall
18 comply with all reasonable requests by the board, the director
19 of revenue, the attorney general, or the auditor of state.

20 10. *Use of revolving fund prohibited.*

21 a. Notwithstanding section 15E.65, subsection 2, paragraph
22 "a", on or after the effective date of this division of this
23 Act, all investment returns received by the Iowa capital
24 investment corporation that are in excess of those payable to
25 designated investors shall be deposited in the general fund of
26 the state.

27 b. This subsection shall not be construed to impair the
28 terms of the fund documents. It is the intent of the general
29 assembly that this subsection only applies in the event that
30 there are investment returns in excess of those necessary to
31 repay creditors and designated investors under the terms of the
32 fund documents.

33 11. *Preservation of existing rights.* This section is not
34 intended to and shall not limit, modify, or otherwise adversely
35 affect the fund documents, including any certificate or related

1 tax credit issued before the effective date of this division
2 of this Act.

3 12. *Future repeal.* This division VII is repealed upon the
4 occurrence of one of the following, whichever is earlier:

5 a. The expiration or termination of all fund documents. The
6 director of revenue shall notify the Iowa Code editor upon the
7 occurrence of this condition.

8 b. December 31, 2027.

9 Sec. 21. EFFECTIVE UPON ENACTMENT. This division of this
10 Act, being deemed of immediate importance, takes effect upon
11 enactment.

12 DIVISION IV

13 REPLACEMENT TAXES

14 Sec. 22. Section 437A.15, subsection 7, paragraph b, Code
15 2013, is amended to read as follows:

16 b. The task force shall study the effects of the replacement
17 tax on local taxing authorities, local taxing districts,
18 consumers, and taxpayers through January 1, ~~2013~~ 2016. If the
19 task force recommends modifications to the replacement tax that
20 will further the purposes of tax neutrality for local taxing
21 authorities, local taxing districts, taxpayers, and consumers,
22 consistent with the stated purposes of this chapter, the
23 department of management shall transmit those recommendations
24 to the general assembly.

25 DIVISION V

26 STUDY REPORT

27 Sec. 23. ADMINISTRATIVE APPEALS PROCESS FOR TAX MATTERS
28 AND NEW TAX APPEAL BOARD — REPORT. The department of
29 revenue, in consultation with the department of management
30 and other interested stakeholders, shall study the
31 independence, effectiveness, and fairness of the state's
32 current administrative appeals processes for tax matters and
33 shall make recommendations for changes, if necessary, and
34 shall additionally study the desirability, practicality, and
35 feasibility of replacing components of these processes with

1 a new consolidated and independent administrative appeals
 2 board for tax matters within the executive branch to resolve
 3 disputes between the department of revenue and taxpayers. The
 4 department of revenue shall prepare and file a report detailing
 5 its findings and recommendations with the chairpersons and
 6 ranking members of the ways and means committees of the senate
 7 and the house of representatives and with the legislative
 8 services agency by January 8, 2014. This section of this Act
 9 shall not be construed to provide the department of revenue
 10 with the power or authority to eliminate or in any way modify
 11 the property assessment appeals board created pursuant to
 12 section 421.1A.

13 DIVISION VI

14 SECURE AN ADVANCED VISION FOR EDUCATION FUND

15 Sec. 24. Section 423F.2, subsection 1, paragraph b, Code
 16 2013, is amended to read as follows:

17 b. The increase in the state sales, services, and use taxes
 18 under chapter 423, subchapters II and III, from five percent
 19 to six percent shall replace the repeal of the county's local
 20 sales and services tax for school infrastructure purposes. The
 21 distribution of moneys in the secure an advanced vision for
 22 education fund and the use of the moneys for infrastructure
 23 purposes or property tax relief shall be as provided in this
 24 chapter. ~~However, the formula for the distribution of the~~
 25 ~~moneys in the fund shall be based upon amounts that would have~~
 26 ~~been received if the local sales and services taxes under~~
 27 ~~former chapter 423E, Code and Code Supplement 2007, continued~~
 28 ~~in existence.~~

29 Sec. 25. Section 423F.2, subsection 3, Code 2013, is amended
 30 to read as follows:

31 3. The moneys available in a fiscal year in the secure an
 32 advanced vision for education fund shall be distributed by the
 33 department of revenue to each school district ~~in an amount~~
 34 ~~equal to the amount the school district would have received~~
 35 ~~pursuant to the formula in section 423E.4 as if the local sales~~

1 ~~and services tax for school infrastructure purposes was imposed~~
2 on a per pupil basis calculated using each school district's
3 budget enrollment, as defined in section 257.6, for that fiscal
4 year. Moneys in a fiscal year that are in excess of that needed
5 to provide each school district with its formula amount Prior
6 to distribution of moneys in the secure an advanced vision for
7 education fund to school districts, two and one-tenths percent
8 of the moneys available in a fiscal year shall be distributed
9 and credited to the property tax equity and relief fund created
10 in section 257.16A.

11 Sec. 26. APPLICABILITY. This division of this Act applies
12 to fiscal years beginning on or after July 1, 2014.